

### **REMARKS/ARGUMENTS**

Applicant has carefully reviewed and considered the Office Action mailed on February 23, 2007, and the references cited therewith.

No claims have been amended, claims 13, 15, 22, and 24 were previously canceled, and no claims are added; as a result, claims 1-6, 8-14, 16-21, 23, and 25-28 are pending in this application.

#### **§ 102 Rejection of the Claims**

Claims 1-2, 4-6, 14, 16-17, and 19-21 were rejected under 35 USC §102(e) as being anticipated by U.S. Publ. No. 2005/0244782 to Chishti, et al. (hereinafter "Chishti"). Applicant respectfully traverses the rejection as follows.

Applicant does not admit that Chishti is indeed prior art and reserves the right to swear behind the same at a later date. Nonetheless Applicant believes that the present application can be distinguished from Chishti for at least the following reasons.

Applicant respectfully submits Chishti does not contain all elements and limitations in independent claims 1, 16, and 21. For example, Chishti does not appear to teach a method for moving teeth including moving at least one first tooth and moving at least one second tooth while isolating the first tooth at a rest position, isolating the first tooth by relieving the first tooth of any applied force, as provided in claim 1.

Chishti also does not appear to teach a system including means for moving at least one first tooth and means for isolating the first tooth at a rest position by relieving the force applied to it, while moving at least one second tooth, as provided in claim 16. In addition, Chishti does not appear to teach a system for generating one or more appliances for a patient, the teeth including at least one first tooth and at least one second tooth, the system including, among other things, means for modeling and isolating the first tooth at a rest position while moving the second tooth, the isolating of the first tooth relieving the tooth of any applied force, as provided in claim 21.

The Office Action states,

Specifically Chishti et al disclose, 'according to the present invention, systems and methods are provided for incrementally moving teeth using a plurality of discrete appliances, where each appliance successively moves one or more of the patient's teeth by relatively small amounts' (paragraph [0053]). Chishti et al also disclose 'a preferred appliance 111 will comprise a polymeric shell having a cavity shaped to receive and resiliently reposition teeth from one tooth arrangement. The polymeric shell will preferably, but not necessarily, fit over all teeth present in the upper or lower jaw. Often, only certain one(s) of the teeth will be repositioned while others of the teeth will provide a base or anchor region for holding the repositioning appliance in place as it applies the resilient repositioning force against the tooth or teeth to be repositioned" (paragraph [0055]).

(Page 3). Applicant would like to emphasize specifically the last sentence quoted in the Office Action, "Often, only certain one(s) of the teeth will be repositioned while others of the teeth will provide a base or anchor region for holding the repositioning appliance in place as it applies the resilient repositioning force against the tooth to be repositioned." (paragraph [0055]). Applicant respectfully submits that using teeth to provide a base or anchor region for holding the repositioning appliance in place can actually exert a force on the tooth that is not being repositioned.

In fact, "base" is defined as "a supporting part or layer; a foundation" while "anchor" is defined as "a rigid point of support, as for securing a rope; a source for security or stability." The American Heritage Dictionary of the English Language, Third Edition, 1992, pp. 67 and 153. From these definitions, it does not appear that using teeth to provide a base or anchor region could take place without exerting a force on the teeth themselves. Therefore, it does not appear that Chishti teaches moving at least one second tooth while isolating a first tooth at a rest position, isolating the first tooth by relieving the first tooth of any applied force, including means for doing so, and means for modelling a system for doing so, as provided in claims 1, 16, and 21.

Based on the forgoing, Applicant respectfully submits that Chishti does not support a proper § 102(e) rejection of claims 1, 16, and 21. Applicant respectfully requests reconsideration and withdrawal of the § 102(e) rejection for independent claims 1, 16, and 21, as well as those claims which depend therefrom.

§103 Rejection of the Claims

Claims 3, 8-12, and 18 were rejected under 35 USC § 103(a) as being unpatentable over Chishti. Applicant respectfully traverses the rejection as follows.

Claims 3, 8-12, and 18 depend from independent claims 1 and 16, respectively, which are in condition for allowance for at least the reasons stated above. As discussed above for independent claims 1 and 16, Chishti does not teach or suggest a method for moving teeth including moving at least one first tooth and moving at least one second tool while isolating the first tooth at a rest position, isolating the first tooth by relieving the first tooth of any applied force, as provided in claim 1. Nor does Chishti appear to teach or suggest a system including means for moving at least one first tooth and means for isolating the first tooth at a rest position by relieving the force applied to it, while moving at least one second tooth, as provided in claim 16.

As such, each and every element of independent claims 1 and 16 are not taught or suggested by Chishti. As claims 3, 8-12, and 18 depend from independent claims 1 and 16, respectively, the §103 rejection of claims 3, 8-12, and 18 should be withdrawn. Reconsideration and withdrawal of the § 103 rejection for claims 3, 8-12, and 18 are respectfully requested.

Allowable Subject Matter

Claims 23 and 25-28 were objected to as being dependent upon a rejected base claims, but were indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant thanks the Examiner for indicating Allowable Subject Matter.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 236-0122 to facilitate prosecution of this matter.

**CERTIFICATE UNDER 37 CFR §1.8:** The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: **MS AMENDMENT** Commissioner of Patents, P.O. BOX 1450, Alexandria, VA 22313-1450 on this 23<sup>rd</sup> day of May, 2007.

Jennifer L. Vomhof  
Name

J. L. Vomhof  
Signature

Respectfully Submitted,  
Peter G. Knopp

By Applicant's Representatives,  
BROOKS & CAMERON, PLLC  
1221 Nicollet Avenue, Suite 500  
Minneapolis, MN 55403

By: Jeffery L. Cameron  
Jeffery L. Cameron  
Reg. No. 43,527  
Date: 5/23/07